

ASSEMBLY BILL

No. 1428

Introduced by Assembly Member John A. Perez

February 27, 2009

An act to amend Section 27491.43 of the Government Code, relating to coroners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1428, as introduced, John A. Perez. Coroner: autopsy.

Existing law prohibits a coroner from performing an autopsy, dissection, or removal of corneal tissue, pituitary glands, or any other organ, tissue, or fluid, if the coroner has received a certificate of religious belief, executed by the decedent that the procedure would be contrary to his or her religious belief.

This bill would prohibit a coroner from performing that procedure on the body of a decedent, if the deceased is under the age of 18 and the coroner is informed by a person with the right to control the remains that the postmortem anatomical dissection or that specified procedure would be contrary to that person's religious belief.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27491.43 of the Government Code is
- 2 amended to read:
- 3 27491.43. (a) (1) Notwithstanding any other provision of law,
- 4 except as otherwise provided in this section in any case in which
- 5 the coroner, before beginning an autopsy, dissection, or removal

1 of corneal tissue, pituitary glands, or any other organ, tissue, or
2 fluid, has received a certificate of religious belief, executed by the
3 decedent as provided in subdivision (b), that the procedure would
4 be contrary to his or her religious belief, the coroner shall not
5 perform that procedure on the body of the decedent.

6 (2) If, before beginning the procedure, the coroner is informed
7 by a relative or a friend of the decedent that the decedent had
8 executed a certificate of religious belief, the coroner shall not
9 perform the procedure, except as otherwise provided in this section,
10 for 48 hours. If the certificate is produced within 48 hours, the
11 case shall be governed by this section. If the certificate is not
12 produced within that time, the case shall be governed by the other
13 provisions of this article.

14 *(3) If the deceased is under the age of 18 and the coroner is*
15 *informed by a person with the right to control the remains pursuant*
16 *to subdivision (a) of Section 7150.40 of the Health and Safety Code*
17 *that the postmortem anatomical dissection or that specified*
18 *procedure would be contrary to that person's religious belief, the*
19 *corner shall not perform that procedure on the body of the*
20 *decedent.*

21 (b) Any person, 18 years of age or older, may execute a
22 certificate of religious belief which shall state in clear and
23 unambiguous language that any postmortem anatomical dissection
24 or that specified procedures would violate the religious convictions
25 of the person. The certificate shall be signed and dated by the
26 person in the presence of at least two witnesses. Each witness shall
27 also sign the certificate and shall print on the certificate his or her
28 name and residence address.

29 (c) Notwithstanding the existence of a certificate, the coroner
30 may at any time perform an autopsy or any other procedure if he
31 or she has a reasonable suspicion that the death was caused by the
32 criminal act of another or by a contagious disease constituting a
33 public health hazard.

34 (d) (1) If a certificate is produced, and if subdivision (c) does
35 not apply, the coroner may petition the superior court, without fee,
36 for an order authorizing an autopsy or other procedure or for an
37 order setting aside the certificate as invalid. Notice of the
38 proceeding shall be given to the person who produced the
39 certificate. The proceeding shall have preference over all other
40 cases.

1 (2) The court shall set aside the certificate if it finds that the
2 certificate was not properly executed or that it does not clearly
3 state the decedent's religious objection to the proposed procedure.

4 (3) The court may order an autopsy or other procedure despite
5 a valid certificate if it finds that the cause of death is not evident,
6 and that the interest of the public in determining the cause of death
7 outweighs its interest in permitting the decedent and like persons
8 fully to exercise their religious convictions.

9 (4) Any procedure performed pursuant to paragraph (3) shall
10 be the least intrusive procedure consistent with the order of the
11 court.

12 (5) If the petition is denied, and no stay is granted, the body of
13 the deceased shall immediately be released to the person authorized
14 to control its disposition.

15 (e) In any case in which the circumstances, manner, or cause
16 of death is not determined because of the provisions of this section,
17 the coroner may state on the certificate of death that an autopsy
18 was not conducted because of the provisions of this section.

19 (f) A coroner shall not be liable for damages in a civil action
20 for any act or omission taken in compliance with the provisions
21 of this section.